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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

MALTA

1 The Committee considered the initial report of Malta (CRC/C/3/Add.56) submitted on 26 December 1997, at its 633rd and 634th meetings (see CRC/C/SR.633-634), held on 26 May 2000, and adopted* the following concluding observations.

A. Introduction

2 The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting as well as the detailed and informative written answers to the list of issues (CRC/C/Q/MALT.1). The Committee is encouraged by the fruitful and constructive dialogue it had with the State party's delegation and welcomes the positive reactions to the suggestions and recommendations made during the discussion. The Committee regrets that the head of the State party's delegation was not a government official. Nevertheless, the Committee appreciated the delegation's high level of expertise on children's rights, which enabled the Committee to assess fully the situation of the rights of the child in the State party.

* At the 641st meeting, held on 2 June 2000.

B. Positive aspects

3 The Committee welcomes Malta becoming party to the main human rights international instruments as well as to the European Convention on Recognition and Enforcement of Decisions concerning Custody and on Restoration of Custody of Children (1999), the European Convention on the Exercise of Children's Rights (1999), and the Council of Europe Framework Convention for the Protection of National Minorities (1998).

4 The State party's accession to the ILO Convention concerning Minimum Age for Admission to Employment (No. 138) is welcomed by the Committee.

5 The Committee welcomes the translation of the Convention into Maltese.

C. Principal areas of concern and recommendations

1. General measures of implementation

Reservation to the Convention

6 The Committee notes that the reservation to article 26 of the Convention entered by the State party upon ratification of this international instrument may have an adverse effect on the existing levels of social services and benefits for children.

7 **In light of the 1993 Vienna Declaration and its Programme of Action, the Committee recommends that the State party review the reservation made to article 26 of the Convention with a view to withdrawing it.**

Legislation and status of the Convention

8 While noting that a draft bill, entitled "The Children Act", is being considered by Parliament and that this bill will consolidate into one law all existing provisions relating to children's rights, the Committee expresses its concern at the fact that the Convention has not yet been fully incorporated into the legislation. The Committee is also concerned over the status of the Convention within the legal system of the State party, specially concerning the resolution of conflicts between the Convention and the State party's legislation.

9 **The Committee recommends that the State party continue taking effective measures to incorporate all the principles and provisions of the Convention into its domestic legislation and encourages the State party to expedite the enactment of a consolidated law on children's rights.**

Coordination and monitoring

10 Although the Committee is aware of the State party's initiatives to review the role of the Social and Family Welfare Department, which is the governmental institution in charge of coordinating and monitoring the implementation of the Convention, it is concerned about its

limitations in performing its mandate effectively. In this regard, the Committee also notes with appreciation that the State party is giving consideration to the establishment of an Ombudsperson for Children to strengthen the monitoring of the implementation of the Convention.

11 **The Committee recommends that the State party continue with its process of reform with a view to strengthening coordination of the implementation of the Convention. The Committee further recommends that the State party take effective measures to guarantee broader levels of representation in all actors involved in the implementation of the Convention in the existing coordination mechanism.**

12 **The Committee encourages the State party to establish an independent mechanism (e.g. an Ombudsperson for Children) to strengthen the monitoring of the implementation of the Convention. The Committee suggests that this mechanism be made easily accessible to children and that it deal with complaints of violations of their rights in a child-friendly manner and provide effective remedies for such violations. The Committee further suggests that the State party conduct awareness-raising campaigns to facilitate the effective use by children of the mechanism.**

Data collection

13 While aware that the State party's report and the responses to the list of issues include statistics on the situation of children's rights, the Committee remains concerned at the limited coordination in the collection of data for all areas covered by the Convention.

14 **The Committee recommends that the State party continue updating its data collection system with a view to including all areas covered by the Convention. Such a system should include all children under 18 years of age and specifically emphasize vulnerable groups of children (i.e. children with disabilities, children born out of wedlock, refugee children and children belonging to minority groups) as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the provisions of the Convention.**

Budget allocations

15 The Committee takes note of the State party's child-oriented policy, entitled "A Caring Society in a Changing World", which is currently being discussed. Nevertheless, it expresses its concern at the fact that there is still no comprehensive national policy for the implementation of children's rights in accordance to article 4 of the Convention.

16 **The Committee recommends that the State party give priority to the full implementation of article 4 of the Convention and ensure the appropriate distribution of resources. Budget allocations for the implementation of the economic, social and cultural rights of children should be ensured "to the maximum extent of available [...] resources" (art. 4). The Committee also recommends that the State party take effective measures for the full implementation of a national policy on the rights of the child, with due regard to the holistic nature of the Convention.**

Dissemination of the Convention

17 While aware of the measures taken to promote awareness of the principles and provisions of the Convention, the Committee expresses its concern about the limited nature of these measures.

18 **The Committee recommends that the State party strengthen its efforts to disseminate the principles and provisions of the Convention as a measure to sensitize society about children's rights. In this regard, the Committee encourages the State party to continue with its plans to publish a child-friendly version of the Convention. Awareness-raising among the public at large as well as educational programmes on the implementation of the principles and provisions of the Convention should also be reinforced.**

Training for professionals

19 Although it is noted that the Convention is made known in law schools, the Committee expresses its concern at the lack of training activities for professional groups working with and for children.

20 **The Committee recommends that the State party undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers.**

2. Definition of the child

21 The Committee acknowledges that the State party is reviewing its legislation to include a minimum legal age for medical counselling without parental consent. Nevertheless, concern is expressed that at present the minimum legal age for such counselling is set at 18 years. Concern is also expressed that the minimum legal age for criminal responsibility, set at 9 years, is too low.

22 **The Committee recommends that the State party review its domestic legislation regarding the minimum legal ages for criminal responsibility and for access to medical counselling without parental consent to bring them in accordance to the principles and provisions of the Convention, especially the best interests of the child.**

3. General principles

Non-discrimination

23 Although the Committee takes note that the draft Children Act will eliminate the use of discriminatory terms in the State party's legislation, concern is nevertheless expressed at the use of the terms "illegitimate child" or "natural child", especially with regard to the succession rights

of such children. Concern is also expressed at the alleged reports that expressions with racial connotations have been used by the State party's officials to refer to children belonging to immigrant families in an irregular situation.

24 **The Committee recommends that the State party continue reviewing its domestic legislation with a view to eliminating the use of the terms "illegitimate child" and "natural child". The Committee also recommends that the State party take effective measures to combat and prevent acts of racial discrimination against children belonging to immigrant families.**

Best interests of the child

25 While the Committee is aware that some measures have been adopted to incorporate the principle of best interests of the child, the Committee is of the opinion that these principles are not sufficiently taken into account, especially within the family, the school, in care institutions and in the justice system.

26 **The Committee recommends that the principle of the best interests of the child be included in all relevant legislation affecting children and taken into account in all administrative and judicial decisions, as well as in all policies and programmes related to children.**

4. Civil rights and freedoms

Participatory rights of children

27 With regard to children's participatory rights, concern is expressed about the insufficient measures taken by the State party, especially to promote the participation of children in the family, in the community, at schools and other social institutions, and to ensure the effective enjoyment of their fundamental freedoms.

28 **In light of articles 12-17 of the Convention, the Committee recommends that further measures be taken to promote the participation of children in the family, at school and other institutions, and the effective enjoyment of their fundamental freedoms, including the freedoms of opinion, expression, and association. Public awareness of the participatory rights of children needs to be increased in families, communities, institutions and schools.**

Ill-treatment

29 While the Committee takes note that the use of corporal punishment in schools has been prohibited and that the draft Children Act includes a prohibition on physical punishment, it remains concerned that corporal punishment and "reasonable chastisement" in the home is not legally banned.

30 The Committee recommends that the State party take all effective measures, including legal ones, to include an explicit prohibition on the use of corporal punishment in the home; to

ensure that this prohibition is adequately monitored and enforced, both at home and in the schools, and to promote positive, non-violent forms of discipline as an alternative to corporal punishment in the home

5 Family environment and alternative care

Alternative care measures

31 Although the Committee notes that the draft Children Act includes reforms to strengthen the current procedures governing adoption and foster care, it expresses its concern about the lack of compatibility of the existing procedures for intercountry adoption with the principles and provisions of the Convention Concern is also expressed about children's long stay in residential care (children's institutions) and about the limited alternative care measures for children deprived of a family environment

32 **The Committee takes note that the State party is considering accession to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 and encourages the State party in this regard. The Committee recommends that the State party bring its legislation on domestic and intercountry adoption into line with the principles and provisions of the Convention. Furthermore, the Committee recommends that the State party continue with its plans to develop and promote alternative care measures for children deprived of a family environment (e.g. adoption and foster care).**

Child abuse and neglect

33 While the Committee takes note of the measures taken to investigate and protect children from abuse, such as the establishment of a telephone helpline for children, it expresses its concern at the limited information available to determine the scope of child abuse; at the limited measures available for the rehabilitation of child victims of abuse; and at the insufficient awareness within society regarding the harmful consequences of ill-treatment and abuse, including sexual abuse of children, both within and outside the family.

34 **In light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including the establishment of multi-disciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; that adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and investigative procedures to avoid their double victimization; and that perpetrators of such crimes should be brought to justice. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue.**

6 Basic health and welfare

35 Concern is expressed at the State party's low breastfeeding rate and at the high rate of child obesity.

36 **The Committee recommends that the State party take effective measures to increase and promote the use of breastfeeding practices and to continue and strengthen its special programmes to address the issue of child obesity and promote a healthy lifestyle among children.**

Children with disabilities

37 While the Committee is aware that the State party has established a National Policy on Special Education for children with disabilities, it expresses its concern about the fact that there is a considerable social stigma attached to this group of children and that this situation represents a barrier to their social integration. Concern is also expressed about the limitations faced by voluntary organizations in addressing in a comprehensive manner all the needs of children with disabilities.

38 **In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion on children with disabilities (CRC/C/69), the Committee recommends that the State party implement alternative measures to the institutionalization of children with disabilities; envisage awareness-raising campaigns to eliminate discrimination against them; establish special education programmes and encourage the inclusion and social reintegration of disabled children in the educational system and into society; and establish adequate monitoring of private institutions for children with disabilities.**

Adolescent health

39 The Committee expresses its concern at the increasing rate of teenage pregnancy, at the insufficient access by teenagers to reproductive health education and counselling services, including outside school, and at the lack of a structured policy on health education. Concern is also expressed that insufficient attention has been given to issues of adolescents mental health, and alcohol consumption, and that there is a shortage of psychologists.

40 **The Committee recommends that the State party take effective measures to develop adolescent-friendly health policies and strengthen reproductive health education and counselling services. The Committee further recommends that the State party strengthen its programmes on adolescent mental health and continue developing effective educational campaigns to discourage alcohol consumption among children.**

7. Education, leisure and cultural activities

41 Although the Committee welcomes the State party's achievements in the field of education, it expresses its concern about issues of illiteracy and absenteeism and bullying in schools.

42 **The Committee recommends that the State party continue strengthening its educational programme with a view to improving its quality and relevance. The Committee further recommends that the State party seek to implement additional measures to encourage children to stay in school, particularly during the period of compulsory education. The Committee further recommends that the State party conduct continuous training programmes for teachers on human rights, including children's rights.**

8. Special protection measures

Refugee children

43 While the Committee takes note that a bill on a Refugees Act is currently being debated in Parliament, concern is expressed at the lack of domestic legislation for the protection of unaccompanied, asylum-seeking and refugee children and on family reunification of refugees, and at the limited access of refugee children to education, health services and housing.

44 **The Committee recommends that the State party enact legislation on asylum procedures and family reunification of refugees; continue undertaking effective measures to provide refugee children with access to education, health services and housing; and establish measures to assist refugee children who are victims of any form of neglect, exploitation or abuse.**

Economic exploitation

45 Although the Committee is aware that child labour is prohibited by law, it remains concerned at reports of under-age employment in family businesses and tourism-related activities during the summer holiday season.

46 **The Committee recommends that the State party fully enforce child labour laws and that labour inspectorates be strengthened and penalties imposed in cases of violation. The Committee encourages the State party to ratify the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182).**

Sexual exploitation and abuse

47 The Committee is concerned at the insufficient data and awareness of the phenomenon of commercial sexual exploitation of children in the State party, and at the absence of a comprehensive and integrated approach to preventing and combating this phenomenon.

48 **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake a national study on the nature and extent of commercial sexual exploitation of children with a view to designing policies and programmes, including for care and rehabilitation, to prevent and combat this phenomenon. The Committee recommends that the State party take into account the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996.**

Administration of juvenile justice

49 The Committee welcomes the establishment of a special rehabilitation programme for girls in conflict with the law (e g Fejda) and it is encouraged that a similar programme is being considered for boys. Nevertheless, concern is expressed at the low age of criminal responsibility (9 years), at the assumption, contained in the State party's legislation, that a child aged between 9 and 14 years could act with "mischievous intent", and at the exclusion of children aged between 16 and 18 years from the juvenile justice system

50 **In light of articles 37, 40 and 39 of the Convention and other relevant international standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Committee recommends that the State party undertake legislative reform to raise the minimum age of criminal responsibility; to eliminate the assumption that a child aged between 9 and 14 years could act with "mischievous intent"; and to ensure that the juvenile justice system covers all children under the age of 18.**

9 Dissemination of the reports

51 **Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs.**